

**REMARKS**

Claims 10-18 and 20 are pending in the present application.

**Claim Rejections-35 U.S.C. 103**

Claims 10-18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants' admitted prior art (APA) in view of the Ohuchi reference (U.S. Patent No. 6,107,164). This rejection is respectfully traversed for the following reasons.

Applicants respectfully note the Examiner's acknowledgement on page 2 of the Final Office Action dated March 9, 2007, that the Ohuchi reference (U.S. Patent No. 6,107,164) has a common assignee with the present application, and that based upon the earlier effective U.S. filing date of the Ohuchi reference, **"it constitutes prior art only under 35 U.S.C. 102(e)"**.

**STATEMENT CONCERNING COMMON OWNERSHIP**

Applicants' representative respectfully submits that application U.S. Serial No. 10/718,549 and the Ohuchi reference (U.S. Patent No. 6,107,164) were, at the time the invention of application U.S. Serial No. 10/718,549 was made, owned by Oki Electric Industry Co., Ltd.

Applicants respectfully emphasize that as asserted in the Request for Reconsideration previously filed on June 7, 2007, in accordance with 35 U.S.C. 103(c)

effective as November 29, 1999, subject matter developed by another which qualifies as "prior art" only under one or more subsections of 35 U.S.C. 102(e), (f) and (g) is not to be considered when determining whether an invention sought to be patented is obvious under 35 U.S.C. 103, provided that the subject matter and the claimed invention were commonly owned at the time the invention was made. **Since the Ohuchi patent and the present application were commonly owned at the time the invention of the present application was made, the Ohuchi patent should not in this case be considered as prior art under the provisions of 35 U.S.C. 102(e).**

Applicants again respectfully submit that in view of the Examiner's above noted acknowledgement in the Final Office Action dated March 6, 2007, that the Ohuchi reference constitutes prior art only under 35 U.S.C. 102(e), the Ohuchi reference has thus been effectively removed as statutory prior art in view of common ownership.

**Accordingly, this rejection, insofar as it may pertain to claims 10-18, is improper for at least the above reasons and should thus be withdrawn.**

In the Advisory Action dated August 6, 2007, the Examiner has noted on page 2 that the publication date of the Ohuchi reference is August 22, 2000, and has further asserted that the Ohuchi reference thus constitutes prior art under 35 U.S.C. 102(b) that is a statutory bar.

However, as noted above, the Examiner has acknowledged in the Final Office Action that the Ohuchi reference constitutes prior art **only under 35 U.S.C. 102(e)**. Moreover, the present divisional application claims domestic priority under 35 U.S.C.

119 to parent application U.S. Serial No. 09/460,987, which was filed on December 15, 1999, before the August 22, 2000 publication date of the Ohuchi reference.

Clearly, contrary to the Examiner's assertion in the Advisory Action dated August 6, 2007, the Ohuchi reference does not constitute prior art of the present divisional application under 35 U.S.C. 102(b). The Examiner is therefore respectfully requested to reconsider and withdraw this rejection for at least these reasons.

During a telephone conversation on August 10, 2007, Applicants' representative discussed the above noted issues with the Examiner, and in view of the advanced stage of prosecution, requested expedited examination of this application responsive to this Supplemental Request for Reconsideration. The Examiner agreed, and requested that the Supplemental Request for Reconsideration also be transmitted via facsimile directly to the Examiner. A courtesy copy of this Supplemental Request for Reconsideration, which has been e-filed, has thus been forwarded directly to the Examiner via facsimile.

### **Conclusion**

The Examiner is respectfully requested to reconsider and withdraw the corresponding rejection, and to pass the claims of the present application to issue, for at least the above reasons.

In the event that there are any outstanding matters remaining in the present application, please contact Andrew J. Telesz, Jr. (Reg. No. 33,581) at (571) 283-0720

in the Washington, D.C. area, to discuss these matters.

Pursuant to the provisions of 37 C.F.R. 1.17 and 1.136(a), the Applicants hereby petition for an extension of three (3) months to September 9, 2007, for the period in which to file a response to the outstanding Office Action. The required fee of \$1020.00 should be charged to Deposit Account No. 50-0238.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment for any additional fees that may be required, or credit any overpayment, to Deposit Account No. 50-0238.

Respectfully submitted,

VOLENTINE & WHITT, P.L.L.C.

A handwritten signature in black ink, appearing to read "Andrew J. Telesz, Jr.", written over a horizontal line.

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